

To:

see form PCT/ISA/220

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY
(PCT Rule 43bis.1)

Date of mailing
(day/month/year) see form PCT/ISA/210 (second sheet)

Applicant's or agent's file reference
see form PCT/ISA/220

FOR FURTHER ACTION
See paragraph 2 below

International application No.
PCT/IB2004/002336

International filing date (day/month/year)
21.07.2004

Priority date (day/month/year)
22.07.2003

International Patent Classification (IPC) or both national classification and IPC
G02C5/22

Applicant
MILAN DI KACAVENDA MILENKO

1. This opinion contains indications relating to the following items:

- Box No. I Basis of the opinion
- Box No. II Priority
- Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- Box No. IV Lack of unity of invention
- Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- Box No. VI Certain documents cited
- Box No. VII Certain defects in the international application
- Box No. VIII Certain observations on the international application

2. **FURTHER ACTION**

If a demand for International preliminary examination is made, this opinion will usually be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA"). However, this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1b/s(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of three months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA:



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Box No. I Basis of the opinion

With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

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- This opinion has been established on the basis of a translation from the original language into the following language , which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
- 2. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
 - a. type of material:
 - a sequence listing
 - table(s) related to the sequence listing
 - b. format of material:
 - in written format
 - in computer readable form
 - c. time of filing/furnishing:
 - contained in the international application as filed.
 - filed together with the international application in computer readable form.
 - furnished subsequently to this Authority for the purposes of search.
- 3. In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.
- 4. Additional comments:

Box No. II Priority

1. The following document has not been furnished:

- copy of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(a)).
- translation of the earlier application whose priority has been claimed (Rule 43bis.1 and 66.7(b)).

Consequently it has not been possible to consider the validity of the priority claim. This opinion has nevertheless been established on the assumption that the relevant date is the claimed priority date.

2. This opinion has been established as if no priority had been claimed due to the fact that the priority claim has been found invalid (Rules 43bis.1 and 64.1). Thus for the purposes of this opinion, the international filing date indicated above is considered to be the relevant date.

3. Additional observations, if necessary:

3. Additional observations, if necessary:

Box No. V Reasoned statement under Rule 43b/s.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N) Yes: Claims 1-16
No: Claims

Inventive step (IS) Yes: Claims 2-4,12,13,15
No: Claims 1.5-11 14 16

Industrial applicability (IA) Yes: Claims 1-16
No: Claims

2. Citations and explanations

see separate sheet

Re Item V.

- 1 The following documents are referred to in this communication:
D1 : US 5 517 258 A (NAITO YOSHIE) 14 May 1996 (1996-05-14)
D2 : FR 2 097 211 A (GIROD ROGER) 3 March 1972 (1972-03-03)
- 2 The application does not meet the requirements of Article 6 PCT, because claim 1 is not clear.
- 2.1 The term "by removing material" (lines 18-19) is considered to be a step in a manufacturing method and is therefore considered not having a limiting effect on the apparatus claimed by claim 1.
- 3 The present application does not meet the criteria of Article 33(1) PCT, because the subject-matter of claim 1 is not inventive in the sense of Article 33(3) PCT.
 - 3.1 Document D1 (see Fig.1, Fig.3c, Fig.7) discloses (the references in parenthesis applying to this document):
Recessed hinge to make a temple elastic with respect to a respective endpiece of said frame of a pair of spectacles (3), said hinge comprising at least a male hinge element (13) pivoted to at least a corresponding female element (4), said male hinging element comprising at least a tie-rod (13) able to slide with respect to said temple, a first abutment element (15), arranged inside said temple and axially associated with said tie-rod, and an elastic means (17) loaded between said first abutment element and a second abutment element (23) attached to said tie-rod, in which said female element comprises a seating made in said endpiece, and said male hinging element comprises a hook element solid with said tie-rod, housed in said seating and able to articulate on a pin arranged inside said seating.
 - 3.2 The subject-matter of claim 1 differs from the disclosures of D1 in that the first abutment element being a bushing.
 - 3.3 The problem to be solved by the present invention may therefore be regarded as allowing maintenance of the hinge.
- 3.2 In order to solve the problem posed the skilled person would routinely consider a

design in which as many functional sections as possible could be taken apart, e.g. for cleaning. It would be an obvious measure for the skilled person replace the bottom structure (15) by a removable bushing without involving an inventive step.

- 4 Dependent claim 5-11, 14 and 16 do not contain any features which, in combination with the features of any claim to which they refer, meet the requirements of the PCT in respect of inventive step (Article 33(2) and (3) PCT).
- 5 The combination of the features of dependent claim 2 are neither known from, nor rendered obvious by, the available prior art. The reasons are as follows:
Even though document D2 (see Fig.4) discloses the use of two spring loaded rods (10) there is no mention in D2 that these rods act as tie-rods. In fact the rods of D2 are pushing against the spectacle frame (40) in order to enable an outward bend of the temples(4,5).
There is no hint to be found in document D1 to use a second tie-rod, parallel to a first tie-rod, engaging the same temple as the first tie-rod.
Therefore the subject-matter of claim 2 appears to involve an inventive step.
 - 5.1 The same reasons apply to the subject-matter of claim 3.
 - 5.2 Claims 4, 12, 13 and 15 are dependent on either claim 2 or claim 3 and therefore are also considered to involve an inventive step.